



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5580

by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

750 ILCS 5/602	from Ch. 40, par. 602
750 ILCS 5/607	from Ch. 40, par. 607
750 ILCS 5/610	from Ch. 40, par. 610
750 ILCS 5/612 new	

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that if a parent is found to have made a second allegation of child abuse or neglect that is false, the parent shall be permanently barred from having custody or visitation with the child. Provides that a "false allegation" is one that is known by the parent making the allegation, at the time the allegation is made, to be without merit or one that is made with malicious intent. Provides that a finding that an allegation of child abuse or neglect is false constitutes a change in circumstance for the purpose of meeting one of the requirements for a change in custody.

LRB097 17720 AJO 62934 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Marriage and Dissolution of
5 Marriage Act is amended by changing Sections 602, 607, and 610
6 and by adding Section 612 as follows:

7 (750 ILCS 5/602) (from Ch. 40, par. 602)

8 Sec. 602. Best Interest of Child.

9 (a) The court shall determine custody in accordance with
10 the best interest of the child. The court shall consider all
11 relevant factors including:

12 (1) the wishes of the child's parent or parents as to
13 his custody;

14 (2) the wishes of the child as to his custodian;

15 (3) the interaction and interrelationship of the child
16 with his parent or parents, his siblings and any other
17 person who may significantly affect the child's best
18 interest;

19 (4) the child's adjustment to his home, school and
20 community;

21 (5) the mental and physical health of all individuals
22 involved;

23 (6) the physical violence or threat of physical

1 violence by the child's potential custodian, whether
2 directed against the child or directed against another
3 person;

4 (7) the occurrence of ongoing or repeated abuse as
5 defined in Section 103 of the Illinois Domestic Violence
6 Act of 1986, whether directed against the child or directed
7 against another person;

8 (8) the willingness and ability of each parent to
9 facilitate and encourage a close and continuing
10 relationship between the other parent and the child;

11 (9) whether one of the parents is a sex offender; ~~and~~

12 (10) the terms of a parent's military family-care plan
13 that a parent must complete before deployment if a parent
14 is a member of the United States Armed Forces who is being
15 deployed; and-

16 (11) the occurrence of a false allegation that the
17 child is an abused or neglected child in a custody or
18 visitation proceeding determined pursuant to Section 612.

19 In the case of a custody proceeding in which a stepparent
20 has standing under Section 601, it is presumed to be in the
21 best interest of the minor child that the natural parent have
22 the custody of the minor child unless the presumption is
23 rebutted by the stepparent.

24 (b) The court shall not consider conduct of a present or
25 proposed custodian that does not affect his relationship to the
26 child.

1 (c) Unless the court finds the occurrence of ongoing abuse
2 as defined in Section 103 of the Illinois Domestic Violence Act
3 of 1986, the court shall presume that the maximum involvement
4 and cooperation of both parents regarding the physical, mental,
5 moral, and emotional well-being of their child is in the best
6 interest of the child. There shall be no presumption in favor
7 of or against joint custody.

8 (Source: P.A. 95-331, eff. 8-21-07; 96-676, eff. 1-1-10.)

9 (750 ILCS 5/607) (from Ch. 40, par. 607)

10 (Text of Section before amendment by P.A. 97-659)

11 Sec. 607. Visitation.

12 (a) A parent not granted custody of the child is entitled
13 to reasonable visitation rights unless the court finds, after a
14 hearing, that visitation would endanger seriously the child's
15 physical, mental, moral or emotional health. If the custodian's
16 street address is not identified, pursuant to Section 708, the
17 court shall require the parties to identify reasonable
18 alternative arrangements for visitation by a non-custodial
19 parent, including but not limited to visitation of the minor
20 child at the residence of another person or at a local public
21 or private facility.

22 (1) "Visitation" means in-person time spent between a
23 child and the child's parent. In appropriate
24 circumstances, it may include electronic communication
25 under conditions and at times determined by the court.

1 (2) "Electronic communication" means time that a
2 parent spends with his or her child during which the child
3 is not in the parent's actual physical custody, but which
4 is facilitated by the use of communication tools such as
5 the telephone, electronic mail, instant messaging, video
6 conferencing or other wired or wireless technologies via
7 the Internet, or another medium of communication.

8 (a-3) Grandparents, great-grandparents, and siblings of a
9 minor child, who is one year old or older, have standing to
10 bring an action in circuit court by petition, requesting
11 visitation in accordance with this Section. The term "sibling"
12 in this Section means a brother, sister, stepbrother, or
13 stepsister of the minor child. Grandparents,
14 great-grandparents, and siblings also have standing to file a
15 petition for visitation and any electronic communication
16 rights in a pending dissolution proceeding or any other
17 proceeding that involves custody or visitation issues,
18 requesting visitation in accordance with this Section. A
19 petition for visitation with a child by a person other than a
20 parent must be filed in the county in which the child resides.
21 Nothing in this subsection (a-3) and subsection (a-5) of this
22 Section shall apply to a child in whose interests a petition is
23 pending under Section 2-13 of the Juvenile Court Act of 1987 or
24 a petition to adopt an unrelated child is pending under the
25 Adoption Act.

26 (a-5) (1) Except as otherwise provided in this subsection

1 (a-5), any grandparent, great-grandparent, or sibling may file
2 a petition for visitation rights to a minor child if there is
3 an unreasonable denial of visitation by a parent and at least
4 one of the following conditions exists:

5 (A) (Blank);

6 (A-5) the child's other parent is deceased or has been
7 missing for at least 3 months. For the purposes of this
8 Section a parent is considered to be missing if the
9 parent's location has not been determined and the parent
10 has been reported as missing to a law enforcement agency;

11 (A-10) a parent of the child is incompetent as a matter
12 of law;

13 (A-15) a parent has been incarcerated in jail or prison
14 during the 3 month period preceding the filing of the
15 petition;

16 (B) the child's mother and father are divorced or have
17 been legally separated from each other or there is pending
18 a dissolution proceeding involving a parent of the child or
19 another court proceeding involving custody or visitation
20 of the child (other than any adoption proceeding of an
21 unrelated child) and at least one parent does not object to
22 the grandparent, great-grandparent, or sibling having
23 visitation with the child. The visitation of the
24 grandparent, great-grandparent, or sibling must not
25 diminish the visitation of the parent who is not related to
26 the grandparent, great-grandparent, or sibling seeking

1 visitation;

2 (C) (Blank);

3 (D) the child is born out of wedlock, the parents are
4 not living together, and the petitioner is a maternal
5 grandparent, great-grandparent, or sibling of the child
6 born out of wedlock; or

7 (E) the child is born out of wedlock, the parents are
8 not living together, the petitioner is a paternal
9 grandparent, great-grandparent, or sibling, and the
10 paternity has been established by a court of competent
11 jurisdiction.

12 (2) Any visitation rights granted pursuant to this Section
13 before the filing of a petition for adoption of a child shall
14 automatically terminate by operation of law upon the entry of
15 an order terminating parental rights or granting the adoption
16 of the child, whichever is earlier. If the person or persons
17 who adopted the child are related to the child, as defined by
18 Section 1 of the Adoption Act, any person who was related to
19 the child as grandparent, great-grandparent, or sibling prior
20 to the adoption shall have standing to bring an action pursuant
21 to this Section requesting visitation with the child.

22 (3) In making a determination under this subsection (a-5),
23 there is a rebuttable presumption that a fit parent's actions
24 and decisions regarding grandparent, great-grandparent, or
25 sibling visitation are not harmful to the child's mental,
26 physical, or emotional health. The burden is on the party

1 filing a petition under this Section to prove that the parent's
2 actions and decisions regarding visitation times are harmful to
3 the child's mental, physical, or emotional health.

4 (4) In determining whether to grant visitation, the court
5 shall consider the following:

6 (A) the preference of the child if the child is
7 determined to be of sufficient maturity to express a
8 preference;

9 (B) the mental and physical health of the child;

10 (C) the mental and physical health of the grandparent,
11 great-grandparent, or sibling;

12 (D) the length and quality of the prior relationship
13 between the child and the grandparent, great-grandparent,
14 or sibling;

15 (E) the good faith of the party in filing the petition;

16 (F) the good faith of the person denying visitation;

17 (G) the quantity of the visitation time requested and
18 the potential adverse impact that visitation would have on
19 the child's customary activities;

20 (H) whether the child resided with the petitioner for
21 at least 6 consecutive months with or without the current
22 custodian present;

23 (I) whether the petitioner had frequent or regular
24 contact or visitation with the child for at least 12
25 consecutive months;

26 (J) any other fact that establishes that the loss of

1 the relationship between the petitioner and the child is
2 likely to harm the child's mental, physical, or emotional
3 health; ~~and~~

4 (K) whether the grandparent, great-grandparent, or
5 sibling was a primary caretaker of the child for a period
6 of not less than 6 consecutive months; ~~and-~~

7 (L) the occurrence of a false allegation that the child
8 is an abused or neglected child in a custody or visitation
9 proceeding as determined pursuant to Section 612.

10 (5) The court may order visitation rights for the
11 grandparent, great-grandparent, or sibling that include
12 reasonable access without requiring overnight or possessory
13 visitation.

14 (a-7) (1) Unless by stipulation of the parties, no motion to
15 modify a grandparent, great-grandparent, or sibling visitation
16 order may be made earlier than 2 years after the date the order
17 was filed, unless the court permits it to be made on the basis
18 of affidavits that there is reason to believe the child's
19 present environment may endanger seriously the child's mental,
20 physical, or emotional health.

21 (2) The court shall not modify an order that grants
22 visitation to a grandparent, great-grandparent, or sibling
23 unless it finds by clear and convincing evidence, upon the
24 basis of facts that have arisen since the prior visitation
25 order or that were unknown to the court at the time of entry of
26 the prior visitation, that a change has occurred in the

1 circumstances of the child or his or her custodian, and that
2 the modification is necessary to protect the mental, physical,
3 or emotional health of the child. The court shall state in its
4 decision specific findings of fact in support of its
5 modification or termination of the grandparent,
6 great-grandparent, or sibling visitation. A child's parent may
7 always petition to modify visitation upon changed
8 circumstances when necessary to promote the child's best
9 interest.

10 (3) Attorney fees and costs shall be assessed against a
11 party seeking modification of the visitation order if the court
12 finds that the modification action is vexatious and constitutes
13 harassment.

14 (4) Notice under this subsection (a-7) shall be given as
15 provided in subsections (c) and (d) of Section 601.

16 (b) (1) (Blank.)

17 (1.5) The Court may grant reasonable visitation privileges
18 to a stepparent upon petition to the court by the stepparent,
19 with notice to the parties required to be notified under
20 Section 601 of this Act, if the court determines that it is in
21 the best interests and welfare of the child, and may issue any
22 necessary orders to enforce those visitation privileges. A
23 petition for visitation privileges may be filed under this
24 paragraph (1.5) whether or not a petition pursuant to this Act
25 has been previously filed or is currently pending if the
26 following circumstances are met:

1 (A) the child is at least 12 years old;

2 (B) the child resided continuously with the parent and
3 stepparent for at least 5 years;

4 (C) the parent is deceased or is disabled and is unable
5 to care for the child;

6 (D) the child wishes to have reasonable visitation with
7 the stepparent; and

8 (E) the stepparent was providing for the care, control,
9 and welfare to the child prior to the initiation of the
10 petition for visitation.

11 (2) (A) A petition for visitation privileges shall not be
12 filed pursuant to this subsection (b) by the parents or
13 grandparents of a putative father if the paternity of the
14 putative father has not been legally established.

15 (B) A petition for visitation privileges may not be filed
16 under this subsection (b) if the child who is the subject of
17 the grandparents' or great-grandparents' petition has been
18 voluntarily surrendered by the parent or parents, except for a
19 surrender to the Illinois Department of Children and Family
20 Services or a foster care facility, or has been previously
21 adopted by an individual or individuals who are not related to
22 the biological parents of the child or is the subject of a
23 pending adoption petition by an individual or individuals who
24 are not related to the biological parents of the child.

25 (3) (Blank).

26 (c) The court may modify an order granting or denying

1 visitation rights of a parent whenever modification would serve
2 the best interest of the child; but the court shall not
3 restrict a parent's visitation rights unless it finds that the
4 visitation would endanger seriously the child's physical,
5 mental, moral or emotional health.

6 (d) If any court has entered an order prohibiting a
7 non-custodial parent of a child from any contact with a child
8 or restricting the non-custodial parent's contact with the
9 child, the following provisions shall apply:

10 (1) If an order has been entered granting visitation
11 privileges with the child to a grandparent or
12 great-grandparent who is related to the child through the
13 non-custodial parent, the visitation privileges of the
14 grandparent or great-grandparent may be revoked if:

15 (i) a court has entered an order prohibiting the
16 non-custodial parent from any contact with the child,
17 and the grandparent or great-grandparent is found to
18 have used his or her visitation privileges to
19 facilitate contact between the child and the
20 non-custodial parent; or

21 (ii) a court has entered an order restricting the
22 non-custodial parent's contact with the child, and the
23 grandparent or great-grandparent is found to have used
24 his or her visitation privileges to facilitate contact
25 between the child and the non-custodial parent in a
26 manner that violates the terms of the order restricting

1 the non-custodial parent's contact with the child.

2 Nothing in this subdivision (1) limits the authority of
3 the court to enforce its orders in any manner permitted by
4 law.

5 (2) Any order granting visitation privileges with the
6 child to a grandparent or great-grandparent who is related
7 to the child through the non-custodial parent shall contain
8 the following provision:

9 "If the (grandparent or great-grandparent, whichever
10 is applicable) who has been granted visitation privileges
11 under this order uses the visitation privileges to
12 facilitate contact between the child and the child's
13 non-custodial parent, the visitation privileges granted
14 under this order shall be permanently revoked."

15 (e) No parent, not granted custody of the child, or
16 grandparent, or great-grandparent, or stepparent, or sibling
17 of any minor child, convicted of any offense involving an
18 illegal sex act perpetrated upon a victim less than 18 years of
19 age including but not limited to offenses for violations of
20 Article 12 of the Criminal Code of 1961, is entitled to
21 visitation rights while incarcerated or while on parole,
22 probation, conditional discharge, periodic imprisonment, or
23 mandatory supervised release for that offense, and upon
24 discharge from incarceration for a misdemeanor offense or upon
25 discharge from parole, probation, conditional discharge,
26 periodic imprisonment, or mandatory supervised release for a

1 felony offense, visitation shall be denied until the person
2 successfully completes a treatment program approved by the
3 court.

4 (f) Unless the court determines, after considering all
5 relevant factors, including but not limited to those set forth
6 in Section 602(a), that it would be in the best interests of
7 the child to allow visitation, the court shall not enter an
8 order providing visitation rights and pursuant to a motion to
9 modify visitation shall revoke visitation rights previously
10 granted to any person who would otherwise be entitled to
11 petition for visitation rights under this Section who has been
12 convicted of first degree murder of the parent, grandparent,
13 great-grandparent, or sibling of the child who is the subject
14 of the order. Until an order is entered pursuant to this
15 subsection, no person shall visit, with the child present, a
16 person who has been convicted of first degree murder of the
17 parent, grandparent, great-grandparent, or sibling of the
18 child without the consent of the child's parent, other than a
19 parent convicted of first degree murder as set forth herein, or
20 legal guardian.

21 (g) (Blank).

22 (Source: P.A. 96-331, eff. 1-1-10.)

23 (Text of Section after amendment by P.A. 97-659)

24 Sec. 607. Visitation.

25 (a) A parent not granted custody of the child is entitled

1 to reasonable visitation rights unless the court finds, after a
2 hearing, that visitation would endanger seriously the child's
3 physical, mental, moral or emotional health. If the custodian's
4 street address is not identified, pursuant to Section 708, the
5 court shall require the parties to identify reasonable
6 alternative arrangements for visitation by a non-custodial
7 parent, including but not limited to visitation of the minor
8 child at the residence of another person or at a local public
9 or private facility.

10 (1) "Visitation" means in-person time spent between a
11 child and the child's parent. In appropriate
12 circumstances, it may include electronic communication
13 under conditions and at times determined by the court.

14 (2) "Electronic communication" means time that a
15 parent spends with his or her child during which the child
16 is not in the parent's actual physical custody, but which
17 is facilitated by the use of communication tools such as
18 the telephone, electronic mail, instant messaging, video
19 conferencing or other wired or wireless technologies via
20 the Internet, or another medium of communication.

21 (a-3) Grandparents, great-grandparents, and siblings of a
22 minor child, who is one year old or older, have standing to
23 bring an action in circuit court by petition, requesting
24 visitation in accordance with this Section. The term "sibling"
25 in this Section means a brother, sister, stepbrother, or
26 stepsister of the minor child. Grandparents,

1 great-grandparents, and siblings also have standing to file a
2 petition for visitation and any electronic communication
3 rights in a pending dissolution proceeding or any other
4 proceeding that involves custody or visitation issues,
5 requesting visitation in accordance with this Section. A
6 petition for visitation with a child by a person other than a
7 parent must be filed in the county in which the child resides.
8 Nothing in this subsection (a-3) and subsection (a-5) of this
9 Section shall apply to a child in whose interests a petition is
10 pending under Section 2-13 of the Juvenile Court Act of 1987 or
11 a petition to adopt an unrelated child is pending under the
12 Adoption Act.

13 (a-5) (1) Except as otherwise provided in this subsection
14 (a-5), any grandparent, great-grandparent, or sibling may file
15 a petition for visitation rights to a minor child if there is
16 an unreasonable denial of visitation by a parent and at least
17 one of the following conditions exists:

18 (A) (Blank);

19 (A-5) the child's other parent is deceased or has been
20 missing for at least 3 months. For the purposes of this
21 Section a parent is considered to be missing if the
22 parent's location has not been determined and the parent
23 has been reported as missing to a law enforcement agency;

24 (A-10) a parent of the child is incompetent as a matter
25 of law;

26 (A-15) a parent has been incarcerated in jail or prison

1 during the 3 month period preceding the filing of the
2 petition;

3 (B) the child's mother and father are divorced or have
4 been legally separated from each other or there is pending
5 a dissolution proceeding involving a parent of the child or
6 another court proceeding involving custody or visitation
7 of the child (other than any adoption proceeding of an
8 unrelated child) and at least one parent does not object to
9 the grandparent, great-grandparent, or sibling having
10 visitation with the child. The visitation of the
11 grandparent, great-grandparent, or sibling must not
12 diminish the visitation of the parent who is not related to
13 the grandparent, great-grandparent, or sibling seeking
14 visitation;

15 (C) (Blank);

16 (D) the child is born out of wedlock, the parents are
17 not living together, and the petitioner is a maternal
18 grandparent, great-grandparent, or sibling of the child
19 born out of wedlock; or

20 (E) the child is born out of wedlock, the parents are
21 not living together, the petitioner is a paternal
22 grandparent, great-grandparent, or sibling, and the
23 paternity has been established by a court of competent
24 jurisdiction.

25 (2) Any visitation rights granted pursuant to this Section
26 before the filing of a petition for adoption of a child shall

1 automatically terminate by operation of law upon the entry of
2 an order terminating parental rights or granting the adoption
3 of the child, whichever is earlier. If the person or persons
4 who adopted the child are related to the child, as defined by
5 Section 1 of the Adoption Act, any person who was related to
6 the child as grandparent, great-grandparent, or sibling prior
7 to the adoption shall have standing to bring an action pursuant
8 to this Section requesting visitation with the child.

9 (3) In making a determination under this subsection (a-5),
10 there is a rebuttable presumption that a fit parent's actions
11 and decisions regarding grandparent, great-grandparent, or
12 sibling visitation are not harmful to the child's mental,
13 physical, or emotional health. The burden is on the party
14 filing a petition under this Section to prove that the parent's
15 actions and decisions regarding visitation times are harmful to
16 the child's mental, physical, or emotional health.

17 (4) In determining whether to grant visitation, the court
18 shall consider the following:

19 (A) the preference of the child if the child is
20 determined to be of sufficient maturity to express a
21 preference;

22 (B) the mental and physical health of the child;

23 (C) the mental and physical health of the grandparent,
24 great-grandparent, or sibling;

25 (D) the length and quality of the prior relationship
26 between the child and the grandparent, great-grandparent,

1 or sibling;

2 (E) the good faith of the party in filing the petition;

3 (F) the good faith of the person denying visitation;

4 (G) the quantity of the visitation time requested and
5 the potential adverse impact that visitation would have on
6 the child's customary activities;

7 (H) whether the child resided with the petitioner for
8 at least 6 consecutive months with or without the current
9 custodian present;

10 (I) whether the petitioner had frequent or regular
11 contact or visitation with the child for at least 12
12 consecutive months;

13 (J) any other fact that establishes that the loss of
14 the relationship between the petitioner and the child is
15 likely to harm the child's mental, physical, or emotional
16 health; ~~and~~

17 (K) whether the grandparent, great-grandparent, or
18 sibling was a primary caretaker of the child for a period
19 of not less than 6 consecutive months; ~~and~~.

20 (L) the occurrence of a false allegation that the child
21 is an abused or neglected child in a custody or visitation
22 proceeding as determined pursuant to Section 612.

23 (5) The court may order visitation rights for the
24 grandparent, great-grandparent, or sibling that include
25 reasonable access without requiring overnight or possessory
26 visitation.

1 (a-7) (1) Unless by stipulation of the parties, no motion to
2 modify a grandparent, great-grandparent, or sibling visitation
3 order may be made earlier than 2 years after the date the order
4 was filed, unless the court permits it to be made on the basis
5 of affidavits that there is reason to believe the child's
6 present environment may endanger seriously the child's mental,
7 physical, or emotional health.

8 (2) The court shall not modify an order that grants
9 visitation to a grandparent, great-grandparent, or sibling
10 unless it finds by clear and convincing evidence, upon the
11 basis of facts that have arisen since the prior visitation
12 order or that were unknown to the court at the time of entry of
13 the prior visitation, that a change has occurred in the
14 circumstances of the child or his or her custodian, and that
15 the modification is necessary to protect the mental, physical,
16 or emotional health of the child. The court shall state in its
17 decision specific findings of fact in support of its
18 modification or termination of the grandparent,
19 great-grandparent, or sibling visitation. A child's parent may
20 always petition to modify visitation upon changed
21 circumstances when necessary to promote the child's best
22 interest.

23 (3) Attorney fees and costs shall be assessed against a
24 party seeking modification of the visitation order if the court
25 finds that the modification action is vexatious and constitutes
26 harassment.

1 (4) Notice under this subsection (a-7) shall be given as
2 provided in subsections (c) and (d) of Section 601.

3 (b) (1) (Blank.)

4 (1.5) The Court may grant reasonable visitation privileges
5 to a stepparent upon petition to the court by the stepparent,
6 with notice to the parties required to be notified under
7 Section 601 of this Act, if the court determines that it is in
8 the best interests and welfare of the child, and may issue any
9 necessary orders to enforce those visitation privileges. A
10 petition for visitation privileges may be filed under this
11 paragraph (1.5) whether or not a petition pursuant to this Act
12 has been previously filed or is currently pending if the
13 following circumstances are met:

14 (A) the child is at least 12 years old;

15 (B) the child resided continuously with the parent and
16 stepparent for at least 5 years;

17 (C) the parent is deceased or is disabled and is unable
18 to care for the child;

19 (D) the child wishes to have reasonable visitation with
20 the stepparent; and

21 (E) the stepparent was providing for the care, control,
22 and welfare to the child prior to the initiation of the
23 petition for visitation.

24 (2) (A) A petition for visitation privileges shall not be
25 filed pursuant to this subsection (b) by the parents or
26 grandparents of a putative father if the paternity of the

1 putative father has not been legally established.

2 (B) A petition for visitation privileges may not be filed
3 under this subsection (b) if the child who is the subject of
4 the grandparents' or great-grandparents' petition has been
5 voluntarily surrendered by the parent or parents, except for a
6 surrender to the Illinois Department of Children and Family
7 Services or a foster care facility, or has been previously
8 adopted by an individual or individuals who are not related to
9 the biological parents of the child or is the subject of a
10 pending adoption petition by an individual or individuals who
11 are not related to the biological parents of the child.

12 (3) (Blank).

13 (c) The court may modify an order granting or denying
14 visitation rights of a parent whenever modification would serve
15 the best interest of the child; but the court shall not
16 restrict a parent's visitation rights unless it finds that the
17 visitation would endanger seriously the child's physical,
18 mental, moral or emotional health.

19 (d) If any court has entered an order prohibiting a
20 non-custodial parent of a child from any contact with a child
21 or restricting the non-custodial parent's contact with the
22 child, the following provisions shall apply:

23 (1) If an order has been entered granting visitation
24 privileges with the child to a grandparent or
25 great-grandparent who is related to the child through the
26 non-custodial parent, the visitation privileges of the

1 grandparent or great-grandparent may be revoked if:

2 (i) a court has entered an order prohibiting the
3 non-custodial parent from any contact with the child,
4 and the grandparent or great-grandparent is found to
5 have used his or her visitation privileges to
6 facilitate contact between the child and the
7 non-custodial parent; or

8 (ii) a court has entered an order restricting the
9 non-custodial parent's contact with the child, and the
10 grandparent or great-grandparent is found to have used
11 his or her visitation privileges to facilitate contact
12 between the child and the non-custodial parent in a
13 manner that violates the terms of the order restricting
14 the non-custodial parent's contact with the child.

15 Nothing in this subdivision (1) limits the authority of
16 the court to enforce its orders in any manner permitted by
17 law.

18 (2) Any order granting visitation privileges with the
19 child to a grandparent or great-grandparent who is related
20 to the child through the non-custodial parent shall contain
21 the following provision:

22 "If the (grandparent or great-grandparent, whichever
23 is applicable) who has been granted visitation privileges
24 under this order uses the visitation privileges to
25 facilitate contact between the child and the child's
26 non-custodial parent, the visitation privileges granted

1 under this order shall be permanently revoked."

2 (e) No parent, not granted custody of the child, or
3 grandparent, or great-grandparent, or stepparent, or sibling
4 of any minor child, convicted of any offense involving an
5 illegal sex act perpetrated upon a victim less than 18 years of
6 age including but not limited to offenses for violations of
7 Article 12 of the Criminal Code of 1961, is entitled to
8 visitation rights while incarcerated or while on parole,
9 probation, conditional discharge, periodic imprisonment, or
10 mandatory supervised release for that offense, and upon
11 discharge from incarceration for a misdemeanor offense or upon
12 discharge from parole, probation, conditional discharge,
13 periodic imprisonment, or mandatory supervised release for a
14 felony offense, visitation shall be denied until the person
15 successfully completes a treatment program approved by the
16 court.

17 (f) Unless the court determines, after considering all
18 relevant factors, including but not limited to those set forth
19 in Section 602(a), that it would be in the best interests of
20 the child to allow visitation, the court shall not enter an
21 order providing visitation rights and pursuant to a motion to
22 modify visitation shall revoke visitation rights previously
23 granted to any person who would otherwise be entitled to
24 petition for visitation rights under this Section who has been
25 convicted of first degree murder of the parent, grandparent,
26 great-grandparent, or sibling of the child who is the subject

1 of the order. Until an order is entered pursuant to this
2 subsection, no person shall visit, with the child present, a
3 person who has been convicted of first degree murder of the
4 parent, grandparent, great-grandparent, or sibling of the
5 child without the consent of the child's parent, other than a
6 parent convicted of first degree murder as set forth herein, or
7 legal guardian.

8 (g) (Blank).

9 (h) Upon motion, the court may allow a parent who is
10 deployed or who has orders to be deployed as a member of the
11 United States Armed Forces to designate a person known to the
12 child to exercise reasonable substitute visitation on behalf of
13 the deployed parent, if the court determines that substitute
14 visitation is in the best interest of the child. In determining
15 whether substitute visitation is in the best interest of the
16 child, the court shall consider all of the relevant factors
17 listed in subsection (a) of Section 602 and apply those factors
18 to the person designated as a substitute for the deployed
19 parent for visitation purposes.

20 (Source: P.A. 96-331, eff. 1-1-10; 97-659, eff. 6-1-12.)

21 (750 ILCS 5/610) (from Ch. 40, par. 610)

22 (Text of Section before amendment by P.A. 97-659)

23 Sec. 610. Modification.

24 (a) Unless by stipulation of the parties or except as
25 provided in subsection (a-5), no motion to modify a custody

1 judgment may be made earlier than 2 years after its date,
2 unless the court permits it to be made on the basis of
3 affidavits that there is reason to believe the child's present
4 environment may endanger seriously his physical, mental, moral
5 or emotional health or unless there is the occurrence of a
6 false allegation that the child is an abused or neglected child
7 in a custody or visitation proceeding pursuant to Section 612.

8 (a-5) A motion to modify a custody judgment may be made at
9 any time by a party who has been informed of the existence of
10 facts requiring notice to be given under Section 609.5.

11 (b) The court shall not modify a prior custody judgment
12 unless it finds by clear and convincing evidence, upon the
13 basis of facts that have arisen since the prior judgment or
14 that were unknown to the court at the time of entry of the
15 prior judgment, that a change has occurred in the circumstances
16 of the child or his custodian, or in the case of a joint
17 custody arrangement that a change has occurred in the
18 circumstances of the child or either or both parties having
19 custody, and that the modification is necessary to serve the
20 best interest of the child. The existence of facts requiring
21 notice to be given under Section 609.5 of this Act shall be
22 considered a change in circumstance. In the case of joint
23 custody, if the parties agree to a termination of a joint
24 custody arrangement, the court shall so terminate the joint
25 custody and make any modification which is in the child's best
26 interest. The court shall state in its decision specific

1 findings of fact in support of its modification or termination
2 of joint custody if either parent opposes the modification or
3 termination.

4 (c) Attorney fees and costs shall be assessed against a
5 party seeking modification if the court finds that the
6 modification action is vexatious and constitutes harassment.

7 (d) Notice under this Section shall be given as provided in
8 subsections (c) and (d) of Section 601.

9 (e) A party's absence, relocation, or failure to comply
10 with the court's orders on custody, visitation, or parenting
11 time may not, by itself, be sufficient to justify a
12 modification of a prior order if the reason for the absence,
13 relocation, or failure to comply is the party's deployment as a
14 member of the United States Armed Forces.

15 (f) The occurrence of a false allegation that the child is
16 an abused or neglected child in a custody or visitation
17 proceeding as determined pursuant to Section 612 shall be
18 considered a change in circumstance for the purposes of
19 subsection (b).

20 (Source: P.A. 96-676, eff. 1-1-10.)

21 (Text of Section after amendment by P.A. 97-659)

22 Sec. 610. Modification.

23 (a) Unless by stipulation of the parties or except as
24 provided in subsection (a-5), no motion to modify a custody
25 judgment may be made earlier than 2 years after its date,

1 unless the court permits it to be made on the basis of
2 affidavits that there is reason to believe the child's present
3 environment may endanger seriously his physical, mental, moral
4 or emotional health or unless there is the occurrence of a
5 false allegation that the child is an abused or neglected child
6 in a custody or visitation proceeding pursuant to Section 612.

7 (a-5) A motion to modify a custody judgment may be made at
8 any time by a party who has been informed of the existence of
9 facts requiring notice to be given under Section 609.5.

10 (b) The court shall not modify a prior custody judgment
11 unless it finds by clear and convincing evidence, upon the
12 basis of facts that have arisen since the prior judgment or
13 that were unknown to the court at the time of entry of the
14 prior judgment, that a change has occurred in the circumstances
15 of the child or his custodian, or in the case of a joint
16 custody arrangement that a change has occurred in the
17 circumstances of the child or either or both parties having
18 custody, and that the modification is necessary to serve the
19 best interest of the child. The existence of facts requiring
20 notice to be given under Section 609.5 of this Act shall be
21 considered a change in circumstance. In the case of joint
22 custody, if the parties agree to a termination of a joint
23 custody arrangement, the court shall so terminate the joint
24 custody and make any modification which is in the child's best
25 interest. The court shall state in its decision specific
26 findings of fact in support of its modification or termination

1 of joint custody if either parent opposes the modification or
2 termination.

3 (c) Attorney fees and costs shall be assessed against a
4 party seeking modification if the court finds that the
5 modification action is vexatious and constitutes harassment.

6 (d) Notice under this Section shall be given as provided in
7 subsections (c) and (d) of Section 601.

8 (e) (Blank).

9 (f) A court may only provide for a temporary modification
10 of a custody or visitation order during a period of a parent's
11 deployment by the United States Armed Forces in order to make
12 reasonable accommodations necessitated by the deployment. The
13 temporary order shall specify that deployment is the basis for
14 the order and shall include provisions for:

15 (1) custody or reasonable visitation during a period of
16 leave granted to the deployed parent if the custody or
17 reasonable visitation is in the child's best interest;

18 (2) if appropriate, visitation by electronic
19 communication; and

20 (3) the court's reservation of jurisdiction to modify
21 or terminate the temporary modification order upon the
22 termination of the deployed parent's deployment upon such
23 terms and conditions as the court may deem necessary to
24 serve the child's best interest at the time of the
25 termination of the deployment.

26 (g) A party's past, current, or possible future absence or

1 relocation, or failure to comply with the court's orders on
2 custody, visitation, or parenting time may not, by itself, be
3 sufficient to justify a modification of a prior order if the
4 reason for the absence, relocation or failure to comply is the
5 party's deployment as a member of the United States Armed
6 Forces.

7 (h) The occurrence of a false allegation that the child is
8 an abused or neglected child in a custody or visitation
9 proceeding as determined pursuant to Section 612 shall be
10 considered a change in circumstance for the purposes of
11 subsection (b).

12 (Source: P.A. 96-676, eff. 1-1-10; 97-659, eff. 6-1-12.)

13 (750 ILCS 5/612 new)

14 Sec. 612. Allegations of abuse or neglect.

15 (a) If an allegation that a child is an abused or neglected
16 child is made in a custody or visitation proceeding, the court
17 may request that the Department or a local law enforcement
18 agency conduct an investigation of the allegation. Upon
19 completion of the investigation, the Department or the local
20 law enforcement agency shall report its findings to the court.
21 If the Department or the local law enforcement agency finds
22 that the allegation is unfounded, the court shall hold a
23 hearing to review all available evidence regarding the
24 allegation. For the purposes of this Section:

25 "Abused child" shall have the same meaning as set forth in

1 Section 3 of the Abused and Neglected Child Reporting Act;

2 "Department" means the Department of Children and Family
3 Services; and

4 "Neglected child" shall have the same meaning as set forth
5 in Section 3 of the Abused and Neglected Child Reporting Act.

6 (b) If the court determines, based on the investigation
7 described in subsection (a) or other evidence presented to it,
8 that an allegation that a child is an abused or neglected child
9 made during a custody or visitation proceeding is false and
10 that the person who made the allegation knew it to be false at
11 the time it was made and the person intended the allegation to
12 influence a court ruling in the custody or visitation
13 proceeding, the court may:

14 (1) impose reasonable monetary sanctions, equal to the
15 total of all costs incurred by the accused party as a
16 direct result of defending the allegation and by the
17 Department or the local law enforcement agency as a direct
18 result of investigating the allegation under subsection
19 (a), and reasonable attorney's fees incurred in recovering
20 the sanctions against the person making the allegation; and

21 (2) hold the person who made the false allegation in
22 civil contempt or criminal contempt; or

23 (3) both civil contempt and criminal contempt.

24 (c) If a court determines that a person made a second false
25 allegation that a child is an abused or neglected child in a
26 custody or visitation proceeding as provided in this Section,

1 the court may, in addition to any remedy under subsection (b)
2 of this Section, prohibit the person from receiving custody or
3 visitation rights with regard to the child involved in the
4 allegation.

5 (d) The court shall direct the circuit court clerk to
6 provide a written notice to any party in any proceeding in
7 which custody or visitation is in issue that making a false
8 allegation that a child is an abused or neglected child in a
9 custody or visitation proceeding may result in:

10 (1) monetary sanctions and a holding of the person in
11 contempt; and

12 (2) the loss of the person's right to custody or
13 visitation.

14 Section 95. No acceleration or delay. Where this Act makes
15 changes in a statute that is represented in this Act by text
16 that is not yet or no longer in effect (for example, a Section
17 represented by multiple versions), the use of that text does
18 not accelerate or delay the taking effect of (i) the changes
19 made by this Act or (ii) provisions derived from any other
20 Public Act.